

**APPENDIX B:**  
**Independent Grounds for Dismissal of Fraudulent Concealment Claims (Section V of Mem. of Law)<sup>\*</sup>**

State Subclass	Count Paragraphs Named Plaintiff(s)	Independent Deficiencies in Plaintiffs' Claims	Relevant Authorities
NJ <sup>1</sup>	Count III ¶ 185-204 (Caputo)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>In re Magnesium Oxide Antitrust Litig.</i> , 2011 WL 5008090, at *23 (D.N.J. Oct. 20, 2011) (reliance); <i>Arcand v. Brother Int'l Corp.</i> , 673 F. Supp. 2d 282, 305 (D.N.J. 2009) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>Bracco Diagnostics Inc. v. Bergen Brunswig Drug Co.</i> , 226 F. Supp. 2d 557, 565 n.3 (D.N.J. 2002)
AL	Count III ¶ 218-237 (Mose)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Garcia v. Chrysler Grp. LLC</i> , 127 F. Supp. 3d 212, 234 (S.D.N.Y. 2015) (reliance); <i>Pearson's Pharmacy, Inc. v. Express Scripts, Inc.</i> , 505 F. Supp. 2d 1272, 1277-78 (M.D. Ala. 2007) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
AZ	Count III ¶ 259-278 (Vidal)	Failure to satisfy Rule 9(b) with respect to reliance	<i>Hearn v. R.J. Reynolds Tobacco Co.</i> , 279 F. Supp. 2d 1096, 1114 (D. Ariz. 2003)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
CA	Count V ¶ 330-349 (Roberts; Andary; Dr. Roberts; Smith)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>McVicar v. Goodman Glob., Inc.</i> , 1 F. Supp. 3d 1044, 1058-59 (C.D. Cal. 2014) (reliance); <i>Sanders v. Apple Inc.</i> , 672 F. Supp. 2d 978, 985 (N.D. Cal. 2009) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
CO	Count III ¶ 373-392 (Hall; McVey)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Wood v. Houghton Mifflin Harcourt Publ'g Co.</i> , 569 F. Supp. 2d 1135, 1141 (D. Colo. 2008)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)

\* This appendix addresses grounds specific to dismissal of plaintiffs' fraudulent concealment claims.

<sup>1</sup> Plaintiffs also bring claims on behalf of the putative nationwide class under New Jersey law. CAC at 94.

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CT	Count III ¶ 416-435 (Lingua)	No separate cause of action for fraudulent concealment exists	<i>Traylor v. Awwa</i> , 899 F. Supp. 2d 216, 225 (D. Conn. 2012)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
DE	Count III ¶ 458-477 (Fox)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>TruePosition Inc. v. Andrew Corp.</i> , 507 F. Supp. 2d 447, 462 (D. Del. 2007)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
FL	Count III ¶ 500-519 (Watkins)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Aprigliano v. Am. Honda Motor Co.</i> , 979 F. Supp. 2d 1331, 1342 (S.D. Fla. 2013)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>Burns v. Winnebago Indus., Inc.</i> , 2013 WL 4437246, at *3-4 (M.D. Fla. Aug. 16, 2013)
GA	Count III ¶ 542-561 (Ngwashi; Hamilton)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Garcia v. Chrysler Grp. LLC</i> , 127 F. Supp. 3d 212, 234 (S.D.N.Y. 2015) (reliance); <i>McCabe v. Daimler AG</i> , --- F. Supp. 3d ----, 2015 WL 10091635, at *9 (N.D. Ga. Aug. 20, 2015) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
ID	Count III ¶ 585-604 (Morgan)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Long Rockwood VII, LLC v. Rockwood Lodge, LLC</i> , 2016 WL 335853, at *8-9 (D. Idaho Jan. 26, 2016)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
IL	Count III ¶ 629-648 (Melnyk)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>McMahan v. Deutsche Bank AG</i> , 938 F. Supp. 2d 795, 803, 805 (N.D. Ill. 2013)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
KY	Count III ¶ 671-690 (Downs)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Garcia v. Chrysler Grp. LLC</i> , 127 F. Supp. 3d 212, 234 (S.D.N.Y. 2015) (reliance); <i>Morris Aviation, LLC v. Diamond Aircraft Indus., Inc.</i> , 730 F. Supp. 2d 683, 697-98 (W.D. Ky. 2010) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
MD	Count III ¶ 712-731 (Fraga-Errecart; Zavareei)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>EndoSurg Med., Inc. v. EndoMaster Med., Inc.</i> , 71 F. Supp. 3d 525, 555-56 (D. Md. 2014)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
MA	Count III ¶ 739-758 (Garmey; Gates)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>JSB Indus., Inc. v. Nexus Payroll Servs., Inc.</i> , 463 F. Supp. 2d 103, 107 (D. Mass. 2006)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)

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MI	Count III ¶ 781-800 (O'Neal)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Garcia v. Chrysler Grp. LLC</i> , 127 F. Supp. 3d 212, 234 (S.D.N.Y. 2015) (reliance); <i>Farrell v. Harvey Elam Fair Value Appraisal Servs.</i> , 2012 WL 1080522, at *3 (E.D. Mich. Feb. 29, 2012) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
MN	Count III ¶ 823-842 (Wolford)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Iverson v. Johnson Gas Appliance Co.</i> , 172 F.3d 524, 529 (8th Cir. 1999) (reliance); <i>Taylor Inv. Corp. v. Weil</i> , 169 F. Supp. 2d 1046, 1064 (D. Minn. 2001) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
MO	Count III ¶ 865-884 (Thorson; Yun)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>TAMKO Bldg. Prods., Inc. v. Factual Mut. Ins. Co.</i> , 890 F. Supp. 2d 1129, 1142-43 (E.D. Mo. 2012)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>In re Elk Cross Timbers Decking Mktg.</i> , 2015 WL 6467730, at *22 (D.N.J. Oct. 26, 2015)
MT	Count III ¶ 908-927 (Silverio)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Batten v. Watts Cycle &amp; Marine, Inc.</i> , 783 P.2d 378, 380-81 (Mont. 1989)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
NV	Count III ¶ 948-967 (Reed; Yanus)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Rivera v. Philip Morris, Inc.</i> , 395 F.3d 1142, 1154 (9th Cir. 2005)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
NY	Count IV ¶ 1005-1024 (Weiss; Laurino)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Catalano v. BMW of N. Am., LLC</i> , --- F. Supp. 3d ----, 2016 WL 844832, at *13 (S.D.N.Y. Mar. 1, 2016)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>In re Elk Cross Timbers Decking Mktg.</i> , 2015 WL 6467730, at *22 (D.N.J. Oct. 26, 2015)
NC	Count III ¶ 1047-1066 (Minerva; Holbrook)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Breeden v. Richmond Cnty. Coll.</i> , 171 F.R.D. 189, 194 (M.D.N.C. 1997)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>In re Elk Cross Timbers Decking Mktg.</i> , 2015 WL 6467730, at *22 (D.N.J. Oct. 26, 2015)
OH	Count III ¶ 1089-1108 (Deutsch)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>First Prop. Grp., Ltd. v. Behr Dayton Thermal Prods., LLC</i> , 2011 WL 4073851, at *5 (S.D. Ohio 2011)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
PA	Count III ¶ 1131-1150 (Dingle)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Gaines v. Krawczyk</i> , 354 F. Supp. 2d 573, 586 (W.D. Pa. 2004) (reliance); <i>McLaughlin v. Bayer Corp.</i> , --- F. Supp. 3d ----, 2016 WL 1161578, at *13 (E.D. Pa. Mar. 22, 2016) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>Werwinski v. Ford Motor Co.</i> , 286 F.3d 661, 679-681 (3d Cir. 2002)

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TN	Count III ¶ 1174-1193 (Daschke)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Smith v. Pfizer Inc.</i> , 688 F. Supp. 2d 735, 752 (M.D. Tenn. 2010)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
TX	Count III ¶ 1217-1236 (Patel; Jordan)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Garcia v. Chrysler Grp. LLC</i> , 127 F. Supp. 3d 212, 234 (S.D.N.Y. 2015) (reliance); <i>TXI Operations, LP v. Pittsburg &amp; Midway Coal Mining Co.</i> , 2004 WL 2088911, at *1 (N.D. Tex. Sept. 8, 2004) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
UT	Count III ¶ 1260-1279 (Dilgisic; Knight)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Precision Vascular Sys., Inc. v. Sarcos, L.C.</i> , 199 F. Supp. 2d 1181, 1191 (D. Utah 2002)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
VA	Count III ¶ 1302-1321 (Lynevych; Feller)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Arcand v. Brother Int'l Corp.</i> , 673 F. Supp. 2d 282, 305 n.11 (D.N.J. 2009) (reliance); <i>White v. Potocskas</i> , 589 F. Supp. 2d 631, 642 (E.D. Va. 2008) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
		Barred by economic loss doctrine	<i>In re Elk Cross Timbers Decking Mktg.</i> , 2015 WL 6467730, at *22 (D.N.J. Oct. 26, 2015)
WA	Count III ¶ 1344-1362 (Medler; Rolle)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Landstar Inway, Inc. v. Samrow</i> , 325 P.3d 327, 337 (Wash. Ct. App. 2014)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
WV	Count III ¶ 1389-1408 (Edwards)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Kessel v. Leavitt</i> , 511 S.E.2d 720, 752 (W. Va. 1998) (reliance); <i>Livingston v. K-Mart Corp.</i> , 32 F. Supp. 2d 369, 374 (S.D. W. Va. 1998) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)
WI	Count III ¶ 1432-1451 (Dannberg)	Failure to satisfy Rule 9(b) with respect to reliance and duty to disclose	<i>Staudt v. Artifex Ltd.</i> , 16 F. Supp. 2d 1023, 1030-31 (E.D. Wis. 1998) (reliance); <i>Van Den Heuvel v. A.I. Credit Corp.</i> , 951 F. Supp. 2d 1064, 1073-74 (E.D. Wis. 2013) (duty to disclose)
		Failure to differentiate between Defendants	<i>MDNet, Inc. v. Pharmacia Corp.</i> , 147 F. App'x 239, 244-45 (3d Cir. 2005)